



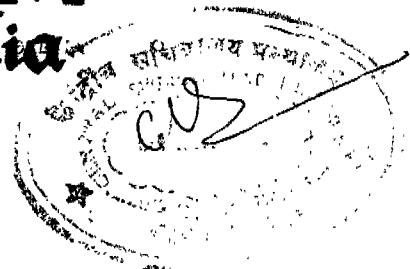
भारत का राजपत्र

The Gazette of India

प्रतिवार्षिक
EXTRAORDINARY

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PART II—Section 2

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इस भाग में विशेष पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed
as a separate compilation

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 26th February, 1993:—

I

BILL No. LXXVI OF 1992

A Bill to provide for the establishment of a permanent Bench of the High Court of Andhra Pradesh at Guntur.

Be it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

1. This Act may be called the High Court of Andhra Pradesh (Establishment of a permanent Bench at Guntur) Act, 1991.

Short title.

2. There shall be established a permanent Bench of the High Court of Andhra Pradesh at Guntur and such number of Judges of the High Court of Andhra Pradesh being not less than seven in number, as the Chief Justice of that High Court may, from time to time nominate, shall sit at Guntur in order to exercise the jurisdiction and power for the time being vested in that High Court in respect of cases arising in the districts of Chittoor, Nellore, Prakasam, Guntur, Krishna, West Godavari, East Godavari, Vizianagaram, Vishakhapatnam, Srikakulam and Khammam.

Establishment of a permanent Bench of High Court of Andhra Pradesh at Guntur.

STATEMENT OF OBJECTS AND REASONS

There has been a long standing demand for setting up a permanent Bench of the High Court of Andhra Pradesh at Guntur. A large number of cases are pending in the Andhra Pradesh High Court for a long time. Litigant public of Coastal areas of Andhra Pradesh have to travel a distance of more than 300 kilometres for reaching the High Court at Hyderabad which is a time consuming and costly affair. Thus, in the interest of speedy and cheap justice and the convenience of the litigant public of coastal areas, it is necessary to establish a permanent Bench of the High Court of Andhra Pradesh at Guntur as early as possible.

The Bill seeks to achieve the above objective.

DR. YELAMANCHILI SEVAK

II

BILL NO. LXIV OF 1992

A Bill further to amend the Constitution of India.

Be it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 1992.

Short title and commencement.

(2) It shall come into force with immediate effect.

2. In article 343 of the Constitution,—

Amendment of article 343.

(i) in clause (1) for the words "the international form of Indian numerals" the words "the Devanagari form of numerals" shall be substituted;

(ii) in clause (3) for sub-clause (b) the following sub-clause shall be substituted namely:—

"(b) the international form of Indian numerals".

Amend-
ment of
article
348.

3. In article 348 of the Constitution,—

(i) in clause (1),—

(a) in sub-clause (b) para (iii) for the words "shall be in the English language" the words "shall be in the Hindi language in Devanagari script" shall be substituted;

(b) the following proviso shall be inserted at the end, namely:—

"Provided that the President may, by order, authorise the use of the English language for any of the purposes referred to above for a limited period as may be specified in the Order."

(ii) the proviso to clause (2) shall be omitted.

(iii) for clause (3) the following clause shall be substituted, namely:—

"(3) Where the Legislature of a State has prescribed any language other than the Hindi language in Devanagari script for use in Bills introduced in, or Acts, passed by, the Legislature of the State or in Ordinances promulgated by the Governor of the State or in any order, rule, regulation or bye-law referred to in paragraph (iii) of sub-clause (b) of clause (1), a translation of the same in the Hindi language in Devanagari script or in the English language published under the authority of the Governor of the State in the Official Gazette of that State shall be deemed to be the authoritative text thereof in the Hindi language in the Devanagari script or in the English language, as the case may be, under this article."

Amend-
ment of
article
351.

4. (1) Article 351 of the Constitution shall be renumbered as clause (1) of that article and in clause (1) as so re-numbered after the words "the spread of Hindi language" the words "at the national and international levels" shall be inserted.

(2) after clause (1) as so renumbered the following clause shall be inserted, namely:—

"(2) For the proper development of the Hindi language at the national and international levels it shall be the duty of the Union to open free Hindi language teaching centres at appropriate places in all the non-Hindi speaking States in the country, and in all the Indian diplomatic missions abroad and start Hindi interpretation services there at and institute awards for learning Hindi by non-Hindi speaking people to secure the desired objectives in this regard."

STATEMENT OF OBJECTS AND REASONS

Hindi language in Devanagari script is the official language of our country and it deserves that position because it is spoken by majority of the people in the country. Hindi is the link language to all the Indian languages because it is understood throughout the country from Kashmir to Kanya Kumari. In some States it is opposed due to political reasons only otherwise it is a well known fact that in Hindi language examinations held at various places in the country, the top positions are always obtained by the students belonging to non-Hindi speaking areas. The founding fathers of our Constitution made Hindi as the Official language but provided that for official purposes English language shall continue only for fifteen years from the commencement of the Constitution. It is a matter of regret that the English language, even after the forty-two years of the commencement of the Constitution is still sitting like an octopus over Hindi. When we could not restore the due place to our official language Hindi during the last four decades naturally it has hindered the development of various other Indian languages. It also hampers wider and broad based active participation by the citizens in the democratic, administrative and judicial processes of our country. The use of the English language in courts and other places has led to the exploitation of our poor and illiterate masses by the lawyers and authorities in the Administration.

Therefore, time has come to see that Hindi gets its due place in all the fields such as judicial, legislative and administrative fields in the country. Fifteen years time for use of English has elapsed long ago and now Hindi must replace English at all levels. There is no doubt that Hindi can be used for all Official purposes and its exclusive use in Bihar, Uttar Pradesh, Madhya Pradesh, Rajasthan, Haryana and Himachal Pradesh have shown that there is no difficulty in using Hindi as official language. Only determined will and efforts of the people and the Government are required in this direction. In the beginning non-Hindi States may face difficulty but they can use their own language for all official purposes but such States must decide not to use English as official or primary language. It should be used as secondary language. Moreover, it will be impractical to abolish English in one go. Therefore, it may be used to the extent necessary and unavoidable till Hindi is accepted by one and all in the country. The Union has to play a vital role in this direction by opening Hindi teaching centres in all the non-Hindi speaking States and in all the diplomatic missions abroad. Hindi interpretation Service may also be introduced there. All these steps may, achieve the desired results.

Hence this Bill.

S. S. AHLUWALIA

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides that Central Government will open free Hindi language teaching Centres at various places for the proper development of Hindi. Clause 4 also provides for starting Hindi interpretation services at all Diplomatic Centres and instituting awards for learning Hindi. Therefore, the Bill if enacted would involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of rupees one crore per annum.

A non recurring expenditure of rupees Twenty lakhs is also likely to be involved.

III

BILL No. II OF 1993

A Bill to provide for banning all the communal political parties which are using religion to attain their political goal and indulging in sectional appeal to serve their political interests and whose activities are against the interest of the nation and for matters connected therewith.

Be it enacted by Parliament in the Forty-fourth Year of the Republic of India as follows:—

1. (1) This Act may be called the Banning of Communal Political Parties Act, 1993.

Short title,
extent
and
commence-
ment.

(2) It extends to the whole of India.

(3) It shall be deemed to have come into force on the 6th day of December, 1992.

Defini-
tions.

2. In this Act unless the context otherwise requires,—

(a) “communal political party” means any political party which uses religion for electoral gains and indulges in sectional appeal to serve its communal interests and whose activities are against the national interest;

(b) words and expressions used but not defined in this Act and defined in the Representation of the People Act, 1951, shall have the meanings respectively assigned to them in that Act.

Ban on
communal
political
parties.

3. Notwithstanding anything contained in the Representation of the People Act, 1951 or any other law for the time being in force all communal political parties in the country whether having representatives in State Legislatures and Parliament or not are hereby banned and stand derecognised.

Act to
have
over-
riding
effect.

4. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

STATEMENT OF OBJECTS AND REASONS

Ours is a secular country. It is not a theocratic State. Followers of various faiths and religions are living here for centuries. Our Constitution guarantees all the citizens complete freedom to follow any religion of their choice. It is evident from our history that all the religions and communities have lived here in peace and harmony. Our epics have taught us tolerance and co-existence without violence.

Our country is a developing nation. It is far behind the developed countries of the world. In such a hard and competitive era India can improve her economic condition only when the secular nature of the polity is consistently maintained and impetus is given to the economic growth of the country.

Seeking mandate on religious appeal has also been disapproved by the judiciary in our country. In the recent past 16 members of the Legislative Assembly and a Member of the House of the People have been unseated by the High Court at Bombay.

In the circumstances it will be unfair to allow the communal political parties to seek electoral mandate solely on the basis of religious sentiments. It is absolutely contrary to the spirit of the Constitution of India and totally against the economic upliftment of our country and annals of judiciary. Now the time has come to ban all such communal political parties which are playing with the religious sentiments of the people to increase their vote bank and flaring communal frenzy in the country without bothering for the ultimate consequences of such communal overtones.

This Bill seeks to achieve the above objectives.

S. S. AHLUWALIA

IV

BILL NO. VIII OF 1993

A Bill to provide for prevention of communal riots by providing deterrent punishment for those persons involved in communal riots or who preach communalism and for the payment of financial assistance to the victims of communal riots and for their rehabilitation by the State and or matters connected therewith.

Be it enacted by Parliament in the Forty-fourth Year of the Republic of India as follows:—

Short title and commencement.

1. (1) This Act may be called the Prevention of Communal Riots and Rehabilitation of Victims Act, 1993.

(2) It extends to the whole of India.

(3) It shall be deemed to have come into force on the 1st day of January, 1984.

Definitions.

2. In this Act unless the context otherwise requires,—

(a) "appropriate Government" means in relation to any of the matters falling within the purview of a State the Government of that State and in relation to any other matter the Central Government;

(b) "communal riot" means outbreak of lawlessness on the part of a crowd caused by religious, communal or caste hatred or favour resulting in death and injuries to the citizens and destruction of movable and immovable properties therein;

(c) "Commissioner" means Commissioner for payment of financial assistance to the victims of communal riots appointed under section 10;

(d) "dependent" means any of the relatives or dependents as defined in section 2 of the "Workmans" Compensation Act, 1923.

(e) "prescribed" means prescribed by rules made under this Act.

3. It shall be the duty of the appropriate Government to prevent the occurrence of communal riots in any part of its jurisdiction.

Government to prevent communal riots.

43 of 1961. 4. Notwithstanding anything contained in the Representation of the People Act, 1951 or any other law for the time being in force, any person found guilty of taking part in a communal riot or found preaching communalism or abetting a communal riot shall be disqualified from holding any office under the Union Government or the Government of a State or from voting or contesting any election to any local body, Legislature of a State and to Parliament.

Certain disqualifications for persons found guilty in a communal riot or preaching communalism or abetting communal riot.

5. The appropriate Government shall give financial assistance of rupees two lakhs in one lump sum to a dependent of a person killed in any communal riot in any part of the country.

Financial assistance to dependents of victims of communal riot.

6. If any person killed in a communal riot was the sole earning member of his family the appropriate Government shall provide suitable employment to at least one eligible member of the family of the victim within a period of six months of the occurrence of such riot.

Employment to one member of a victim's family.

7. If an injury is caused to a person in the course of a communal riot the appropriate Government shall give such person financial assistance according to the nature and effect of the injury as may be prescribed.

Financial assistance for injury to the person.

8. If a person loses his property during a communal riot the appropriate Government shall give such person financial assistance calculated on the basis of substitution or replacement cost of market value, as the case may be, of the property.

Financial assistance for loss of property.

9. If rape is committed on a woman in the course of a communal riot the appropriate Government shall give to such a woman financial assistance of rupees fifty thousand in one lump-sum.

Financial assistance to rape victims.

Appointment of Commissioner.

10. (1) The appropriate Government shall, as soon as may be, appoint, by notification in the Official Gazette, a Commissioner for the purposes of this Act.

(2) The Commissioner to be appointed under sub-section (1) shall be a person who has been or is qualified to be a judge of a High Court or who is and has exercised the powers of a District Judge.

Inviting claims.

11. (1) The Commissioner shall, as soon as may be, invite and entertain claims from all persons who are entitled to receive financial assistance under this Act.

(2) The Commissioner shall notify a date by which the claims under this Act shall be filed specifying the particulars and the nature of the supporting documents required to be filed by the claimant:

Provided that the claims arising from riots which took place between the first day of January, 1984 and the commencement of this Act may be filed within such period as may be prescribed after the commencement of this Act.

Disposal of Claims.

12. The Commissioner shall dispose the claims filed with him within sixty days of the date of filing thereof.

Time within which financial assistance be paid.

13. The appropriate Government shall give the financial assistance within thirty days of the clearance of the claim by the Commissioner.

Recovery of improper payments.

14. Where the Commissioner is of the opinion that the financial assistance in any case under this Act has been obtained by any person by fraud or impersonation or any other improper means any amount so paid to or received on behalf of such person may be recovered in such manner as may be prescribed:

Provided that no order for recovery shall be passed without giving reasonable opportunity of being heard to the person concerned.

District authorities to submit particulars of communal riot to Commissioner.

15. The Commissioner may, if he thinks fit, require, through a notice to the District administration authorities of the district wherein the communal riot takes place to submit to him within such period as may be specified in the notice, a Statement giving the circumstances leading to the communal riot and extent of the loss of life, limbs, and property in such riot.

Provision of Committee, etc.

16. (1) The Commissioner may, if he thinks fit, requisition the services of one or more persons possessing special knowledge of any matters relevant to the claims to assist him in discharge of his functions under this Act.

(2) The Commissioner may also, if he thinks fit, appoint a committee of local citizens to verify the claims filed with him under this Act.

Appeal.

17. Any person aggrieved by the order or decision of the Commissioner may appeal to the High Court of the State wherein the riot has taken place.

18. The provisions of this Act shall be in addition to, and not in derogation of any other law for the time being in force regulating any of the matters dealt with in this Act and all suits, claims and proceedings arising under this Act but pending in any court shall be dealt with and decided by such court, so far as may be, as if they had been originally instituted under this Act.

Saving of other laws.

19. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

STATEMENT OF OBJECTS AND REASONS

Ours is a secular State and the Constitution has given freedom of religion to its citizens. But experience shows that this freedom of religion has consistently been misused by the communal forces in the country. These communalists misuse religion as a means of spreading communal hatred and ill-will between various religions and communities for their selfish gains. As a result, large scale communal riots are occurring throughout the country even after 45 years of independence. The country has regularly witnessed communal riots between Hindus and Muslims but November, 1984 saw the Sikh community being sacrificed on a large scale, at the altar of communal riots throughout the country. Again the country was recently thrown into worst kind of communal frenzy by the fundamentalist forces who demolished the controversial Babri Masjid at Ayodhya on 6th December, 1992 and in the communal riots which followed thereafter left thousands of innocent citizens dead, critically wounded and crippled. Thousands of women became widows overnight and thousands of children became orphans. During the riots most inhuman behaviour of communalism came to light when women were gangraped and killed in the open public view and children were killed ruthlessly. In many cases the Police which is supposed to protect the citizens, also participated in killing them. All this has further complicated the issue. This kind of special violence has thus assumed an endemic form and virulent dimension in our country. It has given rise to deaths and injuries to persons and destruction of property on a mass scale.

The communal riots leave behind scores of orphans, widows, homeless and indigent persons. Government and administrative machinery appears to be helpless in the face of such disturbances unable to pre-empt the outbreak or to control it by timely and effective action. The country has also witnessed active involvement of the police force and leaders of political parties in acts of violence directed against one community or another. Sometimes this has put a question mark both on the efficiency and impartiality of the State itself.

After the communal riots generally the Administration starts relief work for the victims which remains nominal or inadequate and on a much smaller scale. The relief is not even comparable to the compensation which is given to the victims of railway accident what to speak of air accidents. Even this nominal relief is not given in many cases. In fact what little is done, is done as an act of charity or of patronage.

The State has a moral duty to compensate and rehabilitate the victims of communal riots. Generous rehabilitation would heal the wounds and pave way for reconciliation between the communities concerned. Communal riots are very often motivated by a desire to cause economic losses. If adequate compensation is given to the victims it would deter such motivation. It is high time to provide for deterrent punishment to those political leaders who are involved in communal violence and who preach communalism by depriving them of the privileges provided under the Constitution. These politicians

should be barred from holding any office or from contesting any election. In this Bill an attempt has been made to provide for certain actions which may help in preventing communal riots to a great extent.

Hence this Bill.

S. S. AHLUWALIA

FINANCIAL MEMORANDUM

Clause 5 provides for financial assistance to dependents of victims of communal riots. Clause 6 provides for employment to one member of victims' families. Clauses 7, 8 and 9 provide for financial assistance for injuries, loss of property and to rape victims. Clause 10 provides for appointment of Commissioner. This Bill, if enacted, is likely to involve a recurring expenditure of rupees five hundred crores per annum from the Consolidated Fund of India.

Non-recurring expenditure of rupees ten crores is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 19 of the Bill empowers the Government to make rules which will relate to matters of details only. The delegation of legislative power is of normal character.

V

BILL No. LXVII OF 1992

A Bill to provide for the prohibition of advertisement of raw tobacco and tobacco products through the electronic and print media and to regulate the production and sale of such products with a view to protecting the health of the general public and for matters connected therewith.

Be it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Tobacco and Tobacco Products (Prohibition of Advertisement and Miscellaneous Provisions) Act, 1992.

Short title,
extent
and com-
mence-
ment.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

2. In this Act, unless the context otherwise requires,—

(a) “advertisement” includes any notice, circular, label, wrapper and other document and also includes any visible representation or announcement made by means of any light, sound, smoke or gas

Defini-
tions.

and hoardings, banners, slides, writings on a wall or a vehicle of any kind or through news-papers, magazines, Radio, Television, Video and other media;

(b) "container" means a box, casket, tin, can, case, tube; receptacle, sack, wrapper or other thing in which tobacco or a tobacco product is placed or packed for sale or distribution;

(c) "label" means a display of written, marked, stamped, printed or graphic matter affixed to or appearing upon any container;

(d) "prescribed" means prescribed by rules made under this Act;

(e) "tobacco product" includes cigar, cigarette, beedi, *khaini*, *paan masala*, *gutka*, *snuff*, *kimam*, *zafrani patti* or any such product in which tobacco is used as the main ingredient.

Prohibition of advertisement of tobacco and tobacco product.

3. Notwithstanding anything contained in any other law for the time being in force, no person shall advertise or take part in the publication of any advertisement for the distribution, sale, supply or use of tobacco and tobacco products.

Certain other prohibitions in relations to tobacco and tobacco products.

4. No person shall,—

(a) organise any sports meet or competition for or on behalf of manufacturer or company of any tobacco or tobacco product;

(b) give an impression or create a belief in any manner that the use of any brand of tobacco or tobacco product builds the personality of the user of such tobacco or tobacco product; and

(c) give incentives for the use or sale of tobacco or tobacco product or offer inducement of any other kind for such product.

Information on containers and labels of tobacco and tobacco products.

5. Notwithstanding anything contained in any other law for the time being in force, no person shall produce, supply or distribute tobacco or tobacco product unless every container thereof or label affixed thereto indicates in a clear, conspicuous and in an easily readable and understandable manner the words "IT IS YOUR DEATH WARRANT" in capital letters and in such language, as may be prescribed, alongwith the picture of a human skull with crossbones generally used for danger signals and indicating thereunder the following particulars in the same language, namely:—

(a) the ingredients used therein;

(b) the batch number, date of its manufacture and the date before which it may be consumed; and

(c) such other particulars as may be prescribed.

6. No person who produces, supplies, distributes or sells tobacco or any tobacco product shall fix the remuneration of any of his employees or give any commission to such employees on the basis of the volume of sale of such products made by such employees.

Special provision relating to employee of person who produces, supplies distributes or sells tobacco or tobacco product.

7. Any person who contravenes the provisions of sections 3, 4, 5 and 6 shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to ten thousand rupees or with both.

Penalty.

8. Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of and was responsible to the Company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Offences by Companies.

9. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 an offence punishable under this Act shall be bailable and cognizable.

Offences to be cognizable and bailable.

2 of 1974.

10. The provisions of this Act or the rules made thereunder shall be in addition to and not in derogation of any other law for the time being in force or rules made thereunder.

Savings.

11. The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

Power to make rules.

STATEMENT OF OBJECTS AND REASONS

Tobacco is used in many forms in our country and throughout the world. Generally it is used in smoking cigarettes, cigars, beedis and pipes and in the rural areas of our country it is also used in hookah and sulphi for smoking. In almost every part of our country raw tobacco is also chewed through *Paan*, *Khaini*, *Zarda*, *Surti* and now a new variety has come in the market which is popularly known as *Paan Masala* or *Gutka*, which is made of raw tobacco and it has become a fashion to use it.

It has scientifically been proved that tobacco is very dangerous for health. Smoking cigarette and other tobacco products can cause dangerous diseases like asthma, diabetes, high blood pressure, heart and respiratory diseases and lung cancer. Similarly chewing raw tobacco is the main cause of mouth, food pipe and other types of cancers and thousands of people die of cancer alone in our country and the rest of the world. Unfortunately the use of tobacco in smoking not only harms the users but also others who do not smoke at all. The smokers pollute the air and those who chew it spoil the surroundings by spitting it here and there.

Despite all these evil consequences cigarette, beedi, *Paan Masala* and *Zarda* manufacturers are spending millions of rupees on advertisements of these products alone and are earning billions by selling these dangerous products in the market. Their advertisements show that the smoker of a particular brand of cigarette becomes royal or like a film hero who can beat dozens of ruffians single handedly. Similarly *Paan Masala* advertisements show that marriage ceremony or a party becomes dull without *Paan Masala* or for building ones personality one must use *Paan Masala*. Such advertisements are done through big hoardings at the busy crossroads, by writings on big walls, sometimes on a full page of a newspaper and a magazine and through TV, Radio and Slides in the Video and Cinema halls. Now the Cigarette companies are sponsoring Cricket Tournaments at the national and international levels and other sports events with the active support at the Government level. These advertisements are luring the people particularly the youth to consume these dangerous products leading to their ultimate painful and horrifying death.

In the larger interest of public health and environment a ban should be imposed on all Tobacco Products and raw tobacco but practically it can not be done because crores of people are earning their livelihood. Through these products and it is the main source of our revenue. But at least we can stop glorifying this killer substance by prohibiting its advertisement completely. The user must be told in clear terms that smoking or chewing tobacco is his death warrant. At present a statutory warning in illegible style is printed on the container saying that "—smoking is injurious to health" whereas the advertisement appears in a big way. To attract the attention of the illiterate, the danger sign of human skull with crossbones should also be there on the labels and containers of

tobacco and its products sponsoring of sports events by tobacco companies must be stopped forthwith. In the best interest of public health the ban on all kinds of advertisements glorifying the use of tobacco and tobacco products is a must at this juncture.

The Bill seeks to achieve the above objects.

SURESH PACHOURI

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill gives power to the Central Government to make laws for carrying out the purposes of the Bill. The rules will relate to the matters of details only. The delegation of legislative power is of normal character.

VI

BILL No. LXX OF 1992

A Bill to provide for regulating admission to medical and engineering colleges on the basis of merit alone, prohibition of capitation fee therein and for opening of new medical and engineering colleges by the Government and for matters connected therewith.

Be it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Medical and Engineering Colleges (Regulation of Admission and Opening of new Institutions) Act, 1992.

Short title,
extent and
commencement.

(2) It extends to the whole of India,

(3) It shall come into force at once.

2. In this Act, unless the context otherwise requires “capitation fee” includes any specified amount charged by a medical or an engineering college for admitting a student in such college in the form of donation or building fund whether in one lumpsum or instalments in consideration of such admission.

Definition.

Merit to be the lone criteria for admission to a medical or an engineering college.

Government to open new medical and engineering colleges.

Prohibition of capitation fee in medical and engineering colleges.

Penalty.

Offences by medical or engineering college.

Offences to be cognizable and bailable.

Power to make rules.

3. Notwithstanding anything contained in any other law for the time being in force, after the commencement of this Act, all students eligible for enrolment in a medical or an engineering college shall be admitted only on the basis of merit taking into account the marks secured by each of them in the examination required to be passed for being eligible for admission to the college:

Provided that the minimum percentage of marks for being eligible for admission to a medical or an engineering college for a student shall not be below sixty five percent of the total marks.

4. The Central Government shall establish, from time to time, new medical and engineering colleges to provide sufficient number of seats for all the eligible students in medical or engineering courses.

5. The charging of capitation fee by any medical or engineering college is hereby prohibited.

6. Whoever contravenes the provisions of section 5 shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to ten thousand rupees or with both.

7. Where an offence under this Act has been committed by a medical or an engineering college, every person who, at the time the offence was committed, was in charge of, and responsible to, the medical or engineering college, as the case may be, for the conduct of the working of the college, as well as the college, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

8. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 an offence punishable under this Act shall be bailable and cognizable.

9. The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act,

STATEMENT OF OBJECTS AND REASONS

In our country medical and engineering courses are most sought after courses but in most of the medical and engineering colleges even the best students are not able to get admission as the admission in such colleges is not regulated solely on the basis of merit. In most of the medical and engineering colleges run by the Government, of course, a pre-medical and engineering test is generally held at all India level and students are admitted on that basis but in the colleges run by non-Governmental agencies or by individuals there is no consideration of marks obtained by such students in the examination required to be passed for being eligible for admission to such courses. Most of such colleges charge capitation fee for admission and money is the sole consideration for admitting students in these colleges. Now a days such colleges are charging anything between two to ten lakh rupees for admission to the first year course of MBBS or B.E. This is resulting in the deterioration in the standards of medical and engineering education in such colleges. Despite the judgment of the Supreme Court of India recently declaring charging of capitation fee as illegal, private medical and engineering colleges are still charging capitation fee and such colleges are mushrooming under political patronage in the Country without the requisite infrastructure. To end this practice of charging capitation fee in such colleges, penal provision is necessary and an attempt has been made in this Bill to provide deterrent punishment for charging capitation fee.

In fact the number of seats available for admission to medical and engineering colleges is far less than what is required. It is, therefore, essential that the Central Government should take the responsibility of establishing more colleges in the country so that all meritorious students seeking admission to such courses are able to get admission to their desired courses. It has also been proposed in this Bill that merit should be the only criterion for admission to medical and engineering courses.

Hence this Bill.

SURESH PACHOURI

FINANCE MEMORANDUM

Clause 4 of the Bill makes it obligatory for the Central Government to establish new medical and engineering colleges in the country to accommodate all the eligible candidates. At this stage it cannot be estimated precisely as to how many medical and engineering colleges are likely to be opened. However, it may involve a recurring expenditure of five crores rupees per annum.

It is estimated that a non-recurring expenditure of rupees ten crores may also involve at the initial stage.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to the matters of details only. The delegation of Legislative power is of normal character.

VII

BILL No. LXVI OF 1992

A Bill further to amend the Indian Penal Code.

Be it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Indian Penal Code (Amendment) Act, 1992.

(2) It shall come into force at once.

2. In section 376 of the Indian Penal Code, after sub-section (2), the following sub-sections shall be inserted, namely:—

“(3) Notwithstanding anything contained in sub-section (2), whoever commits rape on a woman when she is under ten years of age shall be punished with death.

“(4) Notwithstanding anything contained in this section whoever, being a relative of a woman commits rape on such woman when, she is under eighteen years of age, shall be punished with death.”

Short title and commence-
ment.

Amend-
ment of
Section 376
of Act 45
of 1860.

STATEMENT OF OBJECTS AND REASONS

In the recent past there has been an unprecedented increase in the heinous cases of rape of minor girls. The act of rape itself is the worst kind of criminal offence against women and humanity and it becomes most heinous, once it is committed on minor girls. We have been that in some of the cases the age of the minor girls was as small as nine months. A heinous crime like rape of a girl child is a stigma on the society. She cannot lead a normal life after rape. The traumatic past always haunts her which is beyond the imagination of any of us. A girl who has been raped, slips into a state of shock which envelops her absolutely. She feels withdrawn and helpless and is haunted by nightmare. Persons who commit such a act deserve no leniency and must get capital punishment.

Further our heads bow in shame when it is learnt that the girl has been raped by her close relative. She becomes the victim of her own trust on the relative. If the sexual assault has been done by a relative obviously the girl remains tight lipped on account of social stigma about it and this silence encourages him to fulfil his lust again and again and he will continue to search for such girl relatives. Such act by a relative beast must not be spared and he needs to be hanged to death. The society has to develop an atmosphere when a girl raped by her close relative should come forward to reveal this beastly act to society without any stigma. If death sentence is provided in law for such rapists it will have a deterrent effect on them.

Hence this Bill.

SURESH PACHOURI

SUDARSHAN AGARWAL
Secretary-General